

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Rickey A. Firth,

Plaintiff,

v.

Case No. 16-14165

Commissioner of Social Security,

Sean F. Cox

United States District Court Judge

Defendant.

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ORDER ADOPTING 7/27/17 REPORT AND RECOMMENDATION

Plaintiff Rickey A. Firth brought this action, challenging Defendant Commissioner of Social Security's denial of his application for social security benefits. The matter was referred to Magistrate Judge Patricia T. Morris for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B). Thereafter, the parties filed cross-motions for summary judgment. On July 27, 2017, the magistrate judge issued her R&R (Doc. # 21) wherein she recommended that the Court deny Plaintiff's motion, grant Defendant's motion, and affirm the Commissioner's decision.

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a magistrate judge must file objections to the R&R within fourteen days after being served with a copy of the R&R. Plaintiff timely filed objections to the R&R on August 9, 2017, and Defendant filed a response to the objections on August 21, 2017.

To properly object to the R&R, Plaintiff must do more than simply restate the arguments set forth in his summary judgment motion. *Senneff v. Colvin*, 2017 WL 710651 at * 2 (E.D. Mich. Feb. 23, 2017). Absent compelling reasons, the Magistrate Judge Act, 28 U.S.C. § 631 *et*

seq., “does not allow parties to raise at the district court stage new arguments or issues that were not presented to the magistrate.” *Murr v. United States*, 200 F.3d 895, 902 n 1 (6th Cir. 2000).

Plaintiff raises a multitude of objections (Nos. 1, 2, 3, 5, 6, 8, 9, 12) that appear to assert that his medical providers failed to adequately treat him. Plaintiff presented similar arguments in his Motion for Summary Judgment and the Court agrees with the magistrate judge’s rejection of these arguments (R&R at 15). It is also not the Court’s role to parse the administrative record to determine whether it contains evidence that is arguably inconsistent with the Commissioner’s decision. *Hollan ex rel. Hollon v. Comm’r of Soc. Sec.*, 447 F.3d 4467, 490-91 (6th Cir. 2006).

Plaintiff’s fourth objection asserts, without any supporting argument, that he cannot work any job. The Court finds that the ALJ’s conclusion that Plaintiff has the residual capacity to perform the full range of medium work, which relied upon objective medical evidence and evidence of Plaintiff’s activities, is supported by substantial evidence.

Plaintiff’s seventh objection asserts that medical evidence from April 2017 supports his claim. This evidence is not material because it is from more than a year and a half after the ALJ’s decision. *Oliver v. Sec’y of Health and Human Servs.*, 804 F.2d 964, 966 (6th Cir. 1986).

Plaintiff’s tenth objection asserts that the ALJ did not have all of Plaintiff’s medical records and his eleventh objection states that he cannot find certain medical records. Because Plaintiff did not present these arguments to the magistrate, they are waived. *Murr*, 200 F.3d at 902 n 1. Further, Plaintiff, who was represented by counsel at the administrative hearing, was the party that bore the burden of proving the existence and severity of his limitations. *Jones v. Comm’r of Soc. Sec.*, 336 F.3d 469, 474 (6th Cir. 2003).

Finally, Plaintiff asserts that the case was delayed for 13 months during the

administrative proceedings. To the extent Plaintiff claims this delay was unreasonable, his argument was not presented to the magistrate and is waived. *Murr*, 200 F.3d at 902 n 1.

Accordingly, the Court OVERRULES Plaintiff's objections and ADOPTS the magistrate judge's July 27, 2017 R&R. IT IS FURTHER ORDERED that: 1) Plaintiff's motion is DENIED; 2) Defendant's motion is GRANTED; and 3) the ALJ's decision is AFFIRMED.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: September 20, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 20, 2017, by electronic and/or ordinary mail.

s/Jennifer McCoy

Case Manager